

Appendix F

Refugees and Displaced Persons

Refugees and displaced persons are a central feature of many stability operations and support operations. Military forces do not have primary responsibility for the international response that assists refugees and displaced persons. However, they may support the activities of their civilian partners. The military may provide security for civilian operations while those operations care for the displaced community. Such security may focus on safety in camps and settlements, the movements of displaced people, the screening of returnees at check points, the protection of relief convoys, and public safety in returnee communities that lack local law and order establishments. The military may also be requested to provide intelligence support to determine the location, timing, movement patterns, and the magnitude of population movements.

ROLE OF THE UNHCR

F-1. The United Nations (UN) Office of the High Commissioner for Refugees (UNHCR) is the lead international organization responsible to protect and assist these refugees and asylum seekers. This office's responsibilities for the protection of refugees include—

- Working to ensure that government authorities identify and provide legal treatment of, access to, and asylum for refugees.
- Assisting with solutions to refugee problems (such as repatriation, integration, and resettlement).
- Supporting returnees.

F-2. To execute its mandate, the UNHCR works with governments; other members of the UN system, such as the World Health Organization and World Food Program; other international organizations, such as the International Organization for Migration; and nongovernmental organizations, such as elements of the International Red Cross and Red Crescent movement.

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F-3. The UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Interagency Standing Committee (see Appendix A) must ensure that the UN system provides emergency humanitarian assistance to those in need, whether in support of UNHCR or another lead agency.

US ARMY INTERNMENT AND RESETTLEMENT OPERATIONS

F-4. Both stability operations and support operations may require Army forces to conduct internment and resettlement operations. If peace enforcement operations require forcible separation of belligerent parties, then internment/resettlement (I/R) operations must also be conducted as peace enforcement (PE) forces capture or detain parties to the conflict or resettle portions of the population. Depending on the type of conflict that results from forcible separation, I/R operations may need to be conducted for enemy prisoners of war, military detainees, civilian internees or refugees, and dislocated civilians. Without a formal declaration of war, hostile military forces that are captured are categorized as civilian internees and not enemy prisoners of war. The Army is the Department of Defense's (DOD's) executive agent for all civilian internees operations.

F-5. Within the Army, military police units coordinate shelter, protection, accountability, and sustainment for civilian internees. Military police establish forward collection points to relieve other PE forces of the responsibility of handling civilian internees. Working closely with civil affairs, psychological operations units, and intelligence personnel, military police units then evacuate civilian internees to camps where the units provide safe and humane treatment of civilian internees required by international law. I/R operations will become critical as PE forces transition from the PE phase to the peacekeeping phase of peace operations. Civilian internee camps are operated in the same manner as prisoner of war camps, with due regard to the fundamental differences between these two categories. For example, due consideration is given to the age, physical condition, and ability of civilians to adjust to the conditions of internment. Family groups are provided separate quarters when interning more than one member of a family.

DISPLACED POPULATIONS

REFUGEES

F-6. According to the 1951 Convention Relating to the Status of Refugees and its 1967 protocol relating to the status of refugees, a refugee is anyone outside his country of origin "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion ... and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." Since then regional treaties expanded on the convention's basic provisions to include persons compelled to leave their country or persons who flee their country due to civil war, civil unrest, or generalized human rights abuses. These developments have led some countries to modify their laws or practice regarding refugees and asylum, but the United States (US) does not

accept that there have been additions or amendments to the definition of “refugee” spelled out in the convention.

F-7. The most important right detailed in the 1951 convention and its 1967 protocol is that of protection and prohibition against forcible return to the country from which the refugee has fled and to all territories where his life or freedom would be threatened. Article 33 of the convention provides that no state shall expel or return a refugee to territories where his life or freedom is threatened. This prohibition against expelling or returning a refugee is accepted as customary under international law. Such acceptance, in turn, calls on all states to respect the prohibition whether or not the state is a party to the 1951 convention and protocol.

F-8. Paragraph 1 of Article 14 of the Universal Declaration of Human Rights declares that everyone has the right to seek and enjoy asylum. However, paragraph 2 of Article 14 declares that the right is not applicable in cases involving nonpolitical crimes or acts contrary to the purposes and principles of the UN. Violations of the convention’s prohibition against forcible return commonly occur when a prospective refugee is rejected at a frontier where there is no possibility to secure asylum elsewhere. Similarly the convention is violated when the country of asylum expels a refugee to a territory where his security is jeopardized or when the refugee is sent to a country for deportation to his country of origin.

F-9. In addition to the right against forcible return, persons determined to be refugees are entitled to—

- The right to life, liberty, and personal security.
- Freedom from cruel, inhumane torture and punishment.
- Freedom from slavery.
- Freedom of thought, conscience, and religion.
- Freedom from arbitrary arrest and detention and recognition as a person before the law.

INTERNALLY DISPLACED PERSONS

F-10. An *internally displaced person* is any person who has left their residence by reason of real or imagined danger but has not left the territory of their own country (JP 3-07.6). Internally displaced persons (IDPs) are frequently confused with refugees or other displaced persons. The definitions of the two categories of displaced elements of a population in a crisis can get blurred in the area of operations. The distinction between the two categories is essentially a matter of location. A refugee gains that status when he crosses an international border. An IDP, on the other hand, remains within the boundary of the country of origin. What is crucial is that this distinction has less to do with reasons for movement and more to do with technical and legal considerations associated with the individual’s ultimate destination. Both the refugee and the IDP may be fleeing the same threat, and both may experience the same requirements to alleviate the threat. Virtually every humanitarian agency has the flexibility to respond to the needs of both refugees and IDPs. The UNHCR, whose mandate specifically charges the organization to respond to the needs of refugees, can serve the interests of IDPs on a case-by-case basis. Moreover, OCHA must work to ensure that the UN system

protects and assists persons who are not covered by other UN mandates. This office, as the title implies, coordinates the humanitarian response to emergencies and advocates the interests of the internally displaced community.

F-11. A special rapporteur of the UN Commission on Human Rights has published protection principles for IDPs that have gained widespread support. The principles provide direction to the international and local relief communities on issues of internal displacement. The document focuses on IDP basic rights, and the national authorities' responsibilities for protection and assistance. Additionally, the principles include the right of international agencies to offer services to IDPs and the duty of national authorities to assist the return of IDPs to their residences or internal resettlement.

F-12. Military forces have been called on to secure displaced persons within their country of origin. Support for IDPs can take several forms. Often, relief convoys need military security. At times, military forces must insulate internally displaced groups from the population at large. Safe areas may be established to ensure the safety of the targeted group. As with military support to refugee operations, the military forces operate with their civilian partners.

RESPONSIBILITIES OF STATES

F-13. States parties to the 1951 convention or 1967 protocol are obligated to respect the prohibition against forcible return and protect the refugees. Moreover, contracting states may not penalize refugees for illegal entry to the asylum countries since the turmoil surrounding the refugees' departure from the state of origin rarely allows time for proper entry formalities. The convention requires refugees to identify themselves to asylum country authorities as soon as possible and to show cause for the illegal entry.

F-14. Although not required by law, states, especially asylum country neighbors, are further encouraged to collaborate to confront and resolve the cause of the refugee movement and to help protect the population needing asylum. The asylum country bears the greatest refugee burden since moving many people across its border often can produce disruption in the arrival areas.

NONGOVERNMENTAL ORGANIZATIONS

F-15. Nongovernmental organizations (NGOs) are particularly organized and positioned to support refugee operations. NGOs enjoy a greater degree of independence than states and international organizations. They are often the first agencies to provide assistance during an emergency. Additionally, local NGOs are frequently the first to give warning to an emerging crisis. NGOs can use their presence and involvement to protect refugees by reporting concerns, alerting the public and media, promoting international standards, offering advice, and monitoring human rights both within the asylum and original countries. NGOs can provide these services regardless of the agencies' specialties. Those NGOs chartered to work with displaced persons—whether providing material assistance or helping to establish and maintain camps and settlements—are particularly well positioned to monitor and report on refugees, IDPs, and other conditions and treatment.

POPULATION MOVEMENT

F-16. A fundamental point of population movement is that it does not occur without reason. Usually, indicators exist that individual rights are, or soon will be, in jeopardy. Military forces may be requested to provide intelligence support to assist in determining the direction and magnitude of these movements. Any social unrest may lead to detention and armed conflict between individuals and groups.

F-17. There are several stages of movement:

- **Preflight and flight.** Military forces can be called on to provide intelligence support to determine the timing, magnitude, and direction of the population movement. These movements can be alone or en masse.
- **Arrival.** Depending on timing and the security at the arrival location, military forces may be called on to assist international organizations, NGOs, and the host nation during the initial arrival of the refugees. This movement can be alone or in a group.
- **Asylum.** Military forces may secure refugee camps and settlements in the host nation while assisting with stabilization of the refugees' country of origin.
- **Repatriation.** When conditions in the operational area improve and the displaced community returns to its native country, military support may be needed to secure repatriation crossing points, screening points, and transit sites as well as to secure returnee movement to local communities.
- **Reintegration.** Finally, during the final, reintegration phase, military forces may be required to assist with the security of returnees as they are absorbed into their local communities. This support is especially critical in the absence of a capable host-nation public safety establishment. International civilian police normally assume the primary responsibility for community law and order.

SPECIAL CONSIDERATIONS

WOMEN

F-18. Several categories of displaced persons whether refugees or IDPs deserve special consideration. Displaced women and girls have particular protection needs. Effective protection measures require planning, common sense, and specific programs to respond to the needs of this vulnerable group. Special attention to this category is critical because women make up a large number of the displaced community. Practical steps are necessary regarding the security of women in camps and settlements. Among these steps are involving the women in ways to improve their security, ensuring basic services are accessible, and improving lighting.

CHILDREN AND ADOLESCENTS

F-19. Another category of displaced persons that warrants special attention is children and adolescents. Life as a displaced person can be traumatic for children. Displaced youths have many causes for their suffering. Children

often face a myriad of challenges including the persecution of family members, the loss of home and comfortable surroundings, separation from family, the need to assume adult responsibilities, and no time for recreation. The most vulnerable, identified as unaccompanied minors, are the young separated from their parents or caregivers. Refugee children share universal rights with all people, additional rights as children, and particular rights as displaced persons. The US has not ratified the 1989 Convention on the Rights of the Child although virtually all other countries have ratified it. This convention contains provisions that cover refugees under the age of eighteen. It addresses nondiscrimination, social participation, adolescence, and children's relationships with others. Additionally, the UNHCR's policy on refugee children calls for reunifying children with primary caregivers as quickly as possible.

ELDERLY

F-20. The elderly also deserve special attention. Depending on the geography of the crisis, the age of this category of refugee could vary from mid-forties to late-seventies. Regardless of age, the elderly displaced persons share reduced opportunity for training and employment, a lack of information on rights and services to which they are entitled, and the risk of abandonment by families unable to provide care. Typically, most elderly refugees become dependent on others only during the final stages of disability and illness. The main problem with the elderly in a refugee situation is that the forced displacement denies them the chance to be provided for by others in the manner to which they are accustomed. Significantly, just as with displaced children, the elderly become most vulnerable when forcibly separated from their families. Separation can occur during any stage of the displaced community experience. During preflight and flight, the younger members of the community are frequently killed. Their deaths leave the elderly behind or moving without support. During asylum or resettlement, younger members often leave first in search of greater security or employment. During repatriation, often after extended asylum, the young are more apt to lose touch with, and interest in, the country of origin, thus leaving the elderly to return alone. This abandonment results in an older group of displaced persons with no source of assistance leading to long-term dependency on the relief mission.